

SENATE BILL 752

By Miller

AN ACT to amend Tennessee Code Annotated, Title 35,
Chapter 5 and Title 66, relative to property and
instruments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 66-24-101, is amended by adding as
new subsections (d) and (e) the following:

(d) Unless an instrument is properly acknowledged or proved, as provided in §
66-22-101 et seq. or other applicable law:

(1) the county register may refuse to register or note the instrument for
registration; and

(2) if the instrument conveys any interest in real property, including any
lien thereon, no purchaser shall be required to accept delivery of the instrument.

If, however, an instrument not so acknowledged or proved is otherwise validly
registered, the instrument shall be deemed to be validly registered for the purposes of §§
66-26-102 and 66-26-103, and all interested parties shall be on constructive notice of the
contents thereof.

(e) Subsection (d) shall apply to all instruments of record on or after the effective
date of this act. However, if the relative priorities of conflicting claims to real property
were established at a time prior to such effective date, the law applicable to such claims
at such time shall determine their priority.

SECTION 2. Tennessee Code Annotated, Section 66-26-103, is amended by deleting
the words, "proved, or acknowledged and".

SECTION 3. Tennessee Code Annotated, Section 66-26-106, is amended by deleting the language “upon lawful authority; and the probate or acknowledgement shall be good, though the certificate has not been transferred to the registers book,” and by substituting instead the language “properly acknowledged or proved, though the certificate of acknowledgement or probate has not been transferred to the registers book, and”.

SECTION 4. Tennessee Code Annotated, Section 66-26-110, is amended by designating the existing language as subsection (a) and by adding as new subsections (b) and (c) the following:

(b) In an action with respect to an instrument, the authenticity of and authority to make each signature on the instrument is admitted unless specifically denied in the pleadings. If the validity of a signature is denied in the pleadings, and if the instrument is not registered or is not properly acknowledged or proved, the burden of establishing validity is on the person claiming validity, but the signature is presumed to be authentic and authorized unless:

(1) the signer is dead or incompetent at the time of trial on the issue of validity of the signature, and

(2) the instrument is unregistered or has been registered for less than twenty (20) years.

(c) Under the presumption set forth in subsection (b), the trier of fact must find that the signature is authentic and authorized unless evidence to the contrary is introduced.

SECTION 5. Tennessee Code Annotated, Section 66-26-113, is amended by adding the language, “or other instrument or the acknowledgement or probate thereof,” between the language, “validity of the deed,” and “but the same shall”.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.